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VIA ECF

Margo K. Brodie, U.S.D.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn New York 11201

Re: Cyril Walter Horsham v. Fresh Direct
Case No. 1:14-cv-00651-MKB-LB

Dear Judge Brodie:

This Firm represents Defendant UTF Trucking, Inc. (misidentified in the Complaint as "Fresh Direct") in the above matter. Pursuant to Your Honor's Individual Practices and Rules, please accept this letter as Defendant's request for a pre-motion conference.

Plaintiff Cyril Horsham alleges that Defendant discriminated against him based on his age and disability by failing to provide a reasonable accommodation and terminating his employment. Although Plaintiff fails to identify the laws pursuant to which he brings these claims, Defendant assumes Plaintiff alleges violations of the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, and the Americans with Disabilities Act, 9 U.S.C. §§12112-117.

Defendant desires to move pursuant to Fed. R. Civ. P Rule 12(b)(1) and (6) to dismiss the Complaint as Plaintiff's claims are subject to the grievance and arbitration procedure outlined in the collective bargaining agreement between Defendant and Plaintiff's union. Moreover, Plaintiff's age discrimination claim should be dismissed because Plaintiff failed to allege any circumstances that would give rise to an inference of age discrimination. Similarly, Plaintiff's disability discrimination claims should be dismissed because Plaintiff failed to allege sufficient facts to support his claim that there was a connection between his alleged disability and the termination of his employment or that he was denied a reasonable accommodation.

Respectfully submitted,

Jeannine R. Idrissa

JRI/pnk
cc: Mr. Cyril Horsham (via First Class Mail)